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IN THE

Supreme Court of the United States

OCTOBER TERM, 1953.

No. 412

PEOPLE OF THE STATE OF ILLINOIS,
ON RELATION OF
GEORGE E. SANKSTONE,

Appellant,

vs.

EDMUND K. JARECKI, Judge of the County Court of Cook County, Illinois, RICHARD J. DALEY, County Clerk of Cook County, Illinois, JOHN GUTKNECHT, States Attorney, Cook County, Illinois, Ex officio acting as the COUNTY OFFICERS ELECTORAL BOARD OF COOK COUNTY, ILLINOIS, LEAH M. WILEY, CHARLES F. CARPENTIER, Secretary of State, of the State of Illinois, and SIDNEY T. HOLZMAN, MARIE H. SUTHERS, JOHN P. DALY, comprising the BOARD OF ELECTION COMMISSIONERS for Chicago, Chicago Heights, Berwyn and Harvey, The Town of Cicero and the Villages of Summit, Stickney, Morton Grove, Elmwood Park, Skokie and Lyons, in the County of Cook and State of Illinois, and LATHAM CASTLE, Attorney General of the State of Illinois,

Appellees.

MOTION OF APPELLANT UNDER RULE 20, OF THE SUPREME COURT OF THE UNITED STATES TO ADVANCE CAUSE FOR IMMEDIATE HEARING ON GROUND OF EMERGENCY AND MOTION FOR TEMPORARY INJUNCTION AND RESTRAINING ORDER AND FOR LEAVE TO FILE TYPEWRITTEN RECORD.

FRANK MICHELS,
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Chicago, Illinois.

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To: The Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Now Comes, George E. Sankstone, Appellant, in the above cause and hereby moves this Honorable Court to

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Advance this Cause for immediate Hearing as an Emergency matter under Rule 20 of the Rule of the Supreme Court of the United States, further moves this Honorable Court, for the entry of an order for a temporary injunction and restraining order, and further moves this Honorable Court for leave to file a typewritten record in these proceedings.

These proceedings arose by Appellant's filing petitions to become a candidate for office of Judge of the Superior Court of Cook County, Illinois, under Section 10-2, Chapter 46, of the laws of the State of Illinois, which in brief, provides for the method of forming a new political party in the State of Illinois and placing the name of candidates upon the ballot at elections in the State of Illinois.

This Appellant filed his petitions in due course and form. Objection was heard to said petitions by the Cook County Officer's Electorial Board, on the grounds that it was necessary for said candidate to have between 121,406 signatures and 194,249 signatures. This petition was for the placing of the name of this Appellant, George E. Sankstone, upon the ballot for the election to be held November 3, 1953 in the State of Illinois, and presented over 5,000 signatures. The statute in question provides that where new political parties are formed for the entire State of Illinois, that the number of signatures necessary for candidates over the entire State of Illinois is 25,000 signatures of which 200 shall be from each of fifty (50) counties and the balance from the balance of the State of Illinois, the State being made up of one hundred two (102) counties. The same Section of the Statute further provides that in territories less than the entire State; as for example, one county of the State, the number of signatures necessary to place a candidate upon the ballot shall be between 5% and 8% of the number of voters, who voted at the last general election.

In order that the break-down on the figure of 25,000 signatures for the entire state to apply to a individual county, assuming that the Statute is followed and that the fifty (50) counties supply each 200 names would make a total of 10,000 signatures, leaving balance of 15,000 signatures for the balance of 52 counties. Assuming further, that in the 52 counties left, 51 counties would each provide 200 names making 10,200 names leaving the balance left for Cook County of 4,800 which is less than the number of signatures filed on behalf of George E. Sankstone, Appellant.

The Cook County Electoral Board in this matter held that the Appellant and candidate the said, George E. Sankstone, had not complied with this Section of the Statute, because he did not receive the above stated number of between 121,406 signatures and 194,249 signatures, representing between 5% and 8% of the vote of the last general election and dismissed the petition of this nominating Appellant. Motion for issuance of a mandamus was filed in the Supreme Court of the State of Illinois to order the name of this candidate to be placed upon the ballot as candidate for Judge of the Superior Court of Cook County, Illinois, alleging among other things, the unconstitutionality and the arbitrariness of the said Section of the Statute; namely, Section 10-2, Chapter 46, Illinois Revised Statutes. The Supreme Court of Illinois denied the motion of Appellant, refusing to issue the Mandamus, and refused to hear the matter without giving any reason therefore.

This candidate having exhausted his remedies in the State Court filed his Complaint in the United States District Court for the Northern District of Illinois, Eastern Division, praying for the issuance of a Writ in the nature of a Writ of Mandamus to order his name placed on the

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ballot as a candidate, asking for a temporary injunction and restraining order to restrain the printing of the ballot with the name of the candidate left off same, and asking for an impaneling of three (3) Judges to hear this matter as by the Statute, Section 2284 of Title 28 of the United States Code in such case made and provided. The Court on September 28, 1953 entered an order denying appellant's prayer, denying the issuance of a temporary injunction and restraining order, and dismissed the Complaint.

This appeal was taken under Section 1253 of Title 28 of the United States Code. This appeal was allowed by order of Court entered on October 6, 1953.

This Appellant herewith states, that the Section of the State Statute involved is unconstitutional, arbitrary, unreasonable and its application shocks the common conscience. As previously outlined in the same Section, the State Statute requires that a candidate for a state wide office shall have a petition signed by 25,000 signatures spread over the entire State of Illinois. This part has been held valid by this Court; in the case of:

McDougall, et al. v. *Green, et al.*, 335 U. S. 280.

However, this appeal attacks the second half of this Statute, which provides that for an office in territory less than the State of Illinois, the candidate shall have between 5% and 8% the number of voters, who voted at the last general election, which in this case by the rule applied by the Cook County Office Electoral Board, required from between 121,406 signatures and 194,249 signatures. Thus, one (1) county of the State of Illinois requires between five times and eight times the number of signatures required for the entire State of Illinois; and requiring more signatures for an office within one county than for Governor of the State of Illinois. Thus, the rights of a candidate of a new political party is estopped from a place on the ballot.

We herewith cite

People v. *Britt*, 206 N. Y. 246 and
People v. *Smith*, 206 N. Y. 231.

Where the Court held that the determination of what shall be a reasonable number of signatures for an independent nomination is primarily a matter for the legislature but that the legislature may not impose unreasonable limitations and 1500 signatures for a county office shocked the common conscience of the people and was designed and intended to defeat the rights of independent candidates in the establishment of political parties.

As the election involved occurs on November 3, 1953 and involves the previous printing of ballots, this is an emergency matter, and this Appellant prays that this Honorable Court enter an order advancing the hearing of this cause on the docket.

And this Appellant further, prays that an order be entered by this Honorable Court permitting this Appellant to file a typewritten record in these proceedings, due to the urgency and shortness of time as heretofore set forth.

Further this Appellant further prays that this Honorable Court enter an Injunction and Restraining Order restraining the defendants herein from printing the ballots for the election of next November 3, 1953, in the State of Illinois, and from holding said election, unless the name of this candidate, the Appellant, is placed on the ballot in a proper and prominent position under the Appellation of Judicial Non Partisan Organization.

Respectfully submitted,

GEORGE E. SANKSTONE,
Appellant.

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State of Illinois }
County of Cook } ss.

This is to certify that the foregoing constitutes a true and accurate statement of the facts involved, that this motion and petition is urged in good faith, that the reasons offered in support of it are well founded in law and fact, and so that justice may be done.

GEORGE E. SANKSTONE.

Subscribed and sworn to before
me a Notary Public this 13th
day of October A. D. 1953.

Notary Public
(Seal)

Respectfully submitted,

FRANK MICHELS,
Attorney for Appellant,
110 S. Dearborn St.,
Chicago, Illinois.

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